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Sent: Thur 4/21/2011 7:42:31 PM
Subject: Materials for tomorrow's meeting
[Questions for April 20 SB 367 Meeting.doc](#)

Attached are the questions that we'd like to discuss with DEQ tomorrow. Also, we'll use the following conference call number: [REDACTED]

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EPA/ DEQ Meeting on SB 367

April 20, 2011

Purpose: To ask questions and see which questions we can address

Introduction:

- DEQ has put tremendous effort into adoption of numeric criteria. EPA does not want to derail those efforts.
- We are committed to working with DEQ to identify solutions.
- We don't have all the answers but we're committed to try and find the answers.

Questions for Discussion:

Effluent Limits:

- We are intrigued by DEQ's concept of gradually lowering the effluent limits. Can you please clarify how DEQ anticipates this would occur? Would DEQ use the triennial review to lower the limits? Is DEQ's viewing this as a compliance schedule- esque approach? What do dischargers think about lower limits in 5 years?

Statewide Demonstration:

- Does DEQ plan to submit a S & W demonstration for TN and TP collectively or individually?
- Does the state intend to follow EPA's 1995 economic guidance for the demonstration?
- Is there any facility-specific information that would be required before a facility could receive a general variance? For example, where would the alternatives analysis component or trading fit into the general variance process?
- Mike's email indicated that DEQ plans to incorporate cost estimates from the Utah study and perhaps other external studies. Will DEQ have any cost-estimates from MT facilities that can be used for comparison and to confirm the estimates from other states?
- How does DEQ intend to handle facilities that are already meeting lower limits? For example, during one workgroup meeting, the Stillwater mine gave a presentation and showed that their current processes achieve ~3 mg/l TN. Would they possible receive a higher limit under a general variance?
- Once costs are assembled at the statewide scale, what thresholds would DEQ use to establish economic hardship? Can you provide any additional details on how DEQ might apply the indicators mentioned in Mike's email (e.g., % MHI, GDP)? Is DEQ considering a \$ / lb / day approach?

- For dischargers applying for a variance after 2016, will this statewide S&W demonstration still apply?
- Does DEQ still intend to grant variances based on LOT?
- Does the state have questions for us about our comments on the *de minimus* provision in the bill or what actions we would take?
- What is the timeframe when EPA might see the first draft of a statewide demonstration?

Next workgroup meeting: Discuss the remedy

Notes from DEQ

Outline of proposed approach to determine S&W on a statewide basis (this closely mirrors what they did in the Midwest for Hg):

1. Do a stratified random selection of permits from large, medium, and small municipal dischargers. This needs to include lagoons and mechanical plants. Also select a similar (likely based on flow) cross-section of private dischargers. We already did the municipal step a couple years back when we did a %MHI analysis.
2. Determine, as best possible, current discharge quality from facilities, and receiving stream low-flow volume. Apply base numeric nutrient standards. If they cannot meet them, determine the approximate technological level and cost to upgrade facility to meet the criteria (Utah study can help here). In some locations the criteria are not attainable at LOT, and so going to LOT would be closest option.
3. Once calculated, extrapolate the estimated cost back to all statewide permit holders, and then compare cost to any economic index we choose (medium MT household income, MT GDP, etc.)